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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/826,336 | 04/03/2001 | John Steinberg | EFIM0261 | 3928 |
| 31408 | 7590 | 04/05/2004 | EXAMINER | |
| JAMES TROSINO 268 Bush Street #3434 SAN FRANCISCO, CA 94104 | | | BAYAT, ALI | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2625 | |
| DATE MAILED: 04/05/2004 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/826,336

Applicant(s)

STEINBERG, JOHN

Examiner

Ali Bayat

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/26/4
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

1. The Applicant's declaration filed on 1/26/04 under 37 CFR 1.131 is sufficient to overcome the Chasen (U.S. 6,628,829) reference. Applicant's arguments, see pages 7-8, filed 1/26/04, with respect to the rejection(s) of claim(s) 1-31 under 102 (e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Gilman et al. & McLaughlin et al.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8,10,12,13-18,20,22-24 and 27-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Gilman et al. (U.S. 6,628,826).

In regard to claim 1 Gilman provides for a method for correcting colors in digital image space. Comprising: obtaining an image containing a specified target test sheet (Fig.1 element 16, col.2 lines 35-42); creating an image file containing said image (Fig.1 element 16, col.2 lines 35-42); providing a profiling mechanism adapted to optionally check said image file for correct alignment with a target test sheet (Fig.1 element 16, col.2 lines 35-42) with information within said image file (Fig.1, element 22 col.2 lines

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49-66), said profiling mechanism matching colors of said image file with colors of said target test sheet(Fig.1 element 22, col.2 lines 55-58, note this profile is used to modify the scanned digital image provided by the scanner 20) using a transformation image algorithm (Fig.3A element 48 col.6 lines 24-31); and creating a color corrected image profile for said submitted image file (Fig.1 element 26 col.2 lines 49-66).

With regard to claims 2 and 13 Gilman provides for a method further comprises transmitting an image profile (Fig.1 element 24, note printer).

As to claim 3 Gilman provides for a method further comprises using an image profile to correct color in another image file (col.6 lines 50-51, note downloaded from ICC web site).

In regard to claim 4 Gilman provides for a method further comprises using an image profile to correct contrast in another image file (col.7 lines 10-25).

With regard to claim 5 Gilman provides for a method further comprises registering on a Web site for profiling software that comprises the transformation image algorithms (col.6 lines 47-54).

As to claims 6 and 28 Gilman provides for a method, further comprising photographing said target test sheet in specific lighting conditions (col.7 lines 61-63).

With regard to claim 7 Gilman provides for a method, further comprising photographing an object under suitable lighting conditions (col.2 line 8).

In regard to claim 8 Gilman provides for a method wherein said profiling mechanism checking said image file for correct alignment further comprises checking for correct orientation with said target test sheet (col.5 lines 40-45).

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With regard to claim 10 Gilman provides for a method, wherein said profiling mechanism checking said image file for correct alignment further comprises checking for correct hue (col.4 lines 65-67).

In regard to claim 12 Gilman provides for a method, wherein, wherein creating a color corrected image profile for said submitted image file further comprises manipulating said color corrected image profile (Fig.3B element 56 col.6 lines 60-65).

With regard to claims 14 and 20 Gilman provides for a method, wherein creating a color corrected image profile further comprises printing said color corrected image profile (Fig.1 element 24).

In regard to claim 15. See claim 5 above. It recites similar limitations as claim 15. Hence it is similarly analyzed and rejected.

As to claim 16 Gilman provides for a method, wherein creating a color corrected image profile further comprises comparing said color corrected image profile to said image file obtained from photographing an object under suitable lighting conditions (col.5 lines 30-45).

With regard to claim 17 Gilman provides for a method, wherein creating a color corrected image profile further comprises saving said color corrected image profile for future viewing (col.6 lines 47-54,note the standard may be downloaded from the ICC web site, which corresponds to saving the color corrected image profile).

In regard to claim 18. See claim 5 above. It recites similar limitations as claim 18. Hence it is similarly analyzed and rejected.

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In regard to claim 22 Gilman provides for a method, wherein creating a color corrected image profile further comprises applying a printer's device dependent color space for color correction (col.2 lines 24-30).

With regard to claims 23 and 24 Gilman provides for a method, wherein creating a color corrected image profile further comprises accessing said digital exhibit space linked to said web site (col.6 lines 47-54,note the standard may be downloaded from the ICC web site, and once downloaded one can e-mail the file).

With regard to claim 27 see claim 1 above. It recites similar limitations as claim 27. Except for a processor (Fig.1 element 16). Hence it similarly analyzed and rejected.

In regard to claim 29 Gilman provides for an image acquisition device comprises a scanner (Fig.1 element 20).

As to claim 30 Gilman provides an apparatus, wherein said image acquisition device comprises a digital camera (Fig.3B element 50).

As to claim 31 Gilman provides for an apparatus, wherein said profiling mechanism is integrated into said camera (col.6 lines 60-65).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 9, 11, 19, 21,25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gilman et al. (U.S. 6,628,826) in view of Murashita et al. (U.S. 6,504,950).

As to claim 9 Gilman provides for a color management system (Fig.3B), but does not expressly provide for checking said image file for correct alignment further comprises checking for correct intensity, Gilman and Murashita are combinable because they are from the same field of endeavor, where Murashita provide for correct intensity (col.33 lines 32-40, note brightness). It would have been obvious to a person of ordinary skill in the art at time the invention was made to incorporate the teaching of Murashita (correcting brightness). Because the Murashita invention relates to a display profile creation method and display profile creation apparatus for creating a profile relating to the color appearance of the display device col.1 lines 20-22).

As to claim 11 Gilman provides a color management system (Fig.3B), but does not provide for transformation image algorithm matches colors of image file with colors of said target test sheet using binary color coding such that each color is represented by a unique binary number, Gilman and Murashita are combinable because they are from the same field of endeavor, where Murashita provide for binary color coding such that each color is represented by a unique binary number (col.18 lines 10-19, note R, G, and B colors each represented by 8-bit). It would have been obvious to a person of ordinary skill in the art at time the invention was made to incorporate the teaching of Murashita (each color is represented by a unique binary number). Because the Murashita invention relates to a display profile creation method and display profile creation

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apparatus for creating a profile relating to the color appearance of the display device col.1 lines 20-22).

With regard to claims 19 and 21 Gilman provides for a color management system (Fig.3B), but does not provide for creating a color corrected image profile further comprises transmitting said color corrected image profile via e-mail, Gilman and Murashita are combinable because they are from the same field of endeavor, where Murashita provide for transmitting said color corrected image profile via e-mail (col.32 lines 27-34). It would have been obvious to a person of ordinary skill in the art at time the invention was made to incorporate the teaching of Murashita (transmitting color corrected image profile via e-mail). Because the Murashita invention relates to a display profile creation method and display profile creation apparatus for creating a profile relating to the color appearance of the display device col.1 lines 20-22).

In regard to claims 25 and 26 Gilman provides for a color management system (Fig.3B), but does not provide for a method, wherein creating a color corrected image profile further comprises accessing said digital exhibit space using access codes and a password, Gilman and Murashita are combinable because they are from the same field of endeavor, where Murashita provide for accessing said digital exhibit space using access codes and a password (col.32 lines 27-34, note accessing the server). It would have been obvious to a person of ordinary skill in the art at time the invention was made to incorporate the teaching of Murashita (access codes and a password). Because the Murashita invention relates to a display profile creation method and display

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profile creation apparatus for creating a profile relating to the color appearance of the display device col.1 lines 20-22).

Other Cited References

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. patent 5,570,108 McLaughlin et al. is cited for a method and apparatus for display calibration and control.

U.S. patent 6, 115,492 to Meltzer et al. is cited for multiple purpose composite target for digital images test and calibration.

U.S. patent 5,881,209 to Stokes is cited for method and system for automatically generating printer profiles.

U.S. patent 6,072,589 to Rozzi is cited for arrangement for efficient characterization of printing devices and method therefor.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Bayat whose telephone number is 703-306-5915.

The examiner can normally be reached on M-Thur 9:00-7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta can be reached on 703-308-5246. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5631.

Ali Bayat *AB*
Patent examiner
Group Art Unit 2625
3/31/04

Timothy M. Johnson
TIMOTHY M. JOHNSON
PRIMARY EXAMINER